

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Jun 14, 2024

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

JACOB ALAN SEIGER,

Defendant.

NO. 1:14-CR-2044-TOR

THIRD ORDER DENYING  
DEFENDANT'S MOTION TO  
REDUCE SENTENCE

BEFORE THE COURT is Defendant's *Pro Se* Motion for Reduction of Sentence. ECF No. 101. This matter was submitted for consideration without oral argument. The Court has reviewed the record and files herein and is fully informed. For the reasons discussed below, Defendant's motion is denied.

**BACKGROUND**

On December 9, 2014, Jacob Alan Seiger appeared before the Court and entered a plea of guilty to Count 2 of the Indictment filed on May 13, 2014, charging him with Distribution of Heroin, in violation of 21 U.S.C. § 841(a)(1). ECF Nos. 53, 54.

THIRD ORDER DENYING DEFENDANT'S  
MOTION TO REDUCE SENTENCE ~ 1

1 On October 23, 2018, this Court sentenced Defendant to a 156-month term  
2 of imprisonment, followed by a 3-year term of supervised release, a \$1,000 fine,  
3 and a \$100.00 special penalty assessment. ECF No. 78. Defendant had been  
4 detained since his arrest in May 2014 and was remanded to the custody of the  
5 United States Marshal to begin service of his sentence. According to the Bureau of  
6 Prisons, Defendant is currently scheduled for release on January 31, 2026.

7 On January 5, 2023, Defendant submitted a request for compassionate  
8 release to the warden of the facility where he was incarcerated. ECF No. 94-2.  
9 According to Defendant, he never received a response to his request. ECF No. 94  
10 at 3. Thereafter, on May 1, 2023, Defendant filed a Motion for Compassionate  
11 Release. ECF No. 94. Defendant requested the Court to reduce his sentence to  
12 time served. ECF No. 94-1. He explained that three of his drug possession  
13 charges had been expunged and that he is participating in RDAP. *Id.* He also  
14 alleged that his “health concerns are not being seen to in a professional manner.”  
15 *Id.* He provided no further information on this subject other than to say that he is a  
16 recovering opiate addict and absolutely requires medicine.

17 On May 4, 2023, the Court entered an Order Denying Defendant’s Motion to  
18 Reduce Sentence. ECF No. 95.

19 Defendant then filed another Motion for Compassionate Release and Motion  
20 for Counsel. ECF No. 98. Plaintiff’s Motion for Compassionate Release was not

1 signed. Plaintiff alleges he exhausted his administrative remedies by requesting  
2 release, ECF No. 98, Ex. 1, but this is the same request he made to support his last  
3 request, which was denied. The Court entered a Second Order Denying  
4 Defendant's Motion to Reduce his Sentence. ECF No. 99.

5 Defendant now reiterates that some of his criminal history points have been  
6 reduced and is seeking a reduced sentence. ECF No. 101. Defendant  
7 acknowledges that he entered into a binding Rule 11(c)(1)(C) plea agreement  
8 which did not allow him to withdraw or appeal and which precluded him from  
9 attacking his conviction or sentence. *See* ECF No. 53 (Plea Agreement).

## 10 **DISCUSSION**

### 11 **A. Eligibility for Compassionate Release**

12 Federal courts have the statutory authority to modify an imposed term of  
13 imprisonment for two reasons: compassionate release under 18 U.S.C. § 3582(c)(1)  
14 or based on a change in the sentencing guidelines under 18 U.S.C. § 3582(c)(2).  
15 Until recently, motions for compassionate release could only be brought to the  
16 Court by the Director of the Bureau of Prisons. 18 U.S.C. § 3582(c)(1)(A) (2002).  
17 However, after the December 2018 passage of the First Step Act, defendants may  
18 now bring their own motions for compassionate release after exhausting  
19 administrative remedies within the Bureau of Prisons or by waiting 30 days after  
20 receipt of their request by the warden of defendant's facility, whichever is earlier.

1 18 U.S.C. § 3582(c)(1)(A) (2018).

2 A defendant may be eligible for compassionate release: (1) if the Court finds  
3 “extraordinary or compelling reasons” to warrant a sentence reduction; or (2) if the  
4 defendant is at least 70 years old, has served at least 30 years in prison pursuant to  
5 a sentence imposed for the offense for which the defendant is currently imprisoned,  
6 and the defendant is determined not to pose a risk of danger to the community. 18  
7 U.S.C. § 3582(c)(1)(A). Under either eligibility prong, the Court must also find  
8 that a sentence reduction is “consistent with applicable policy statements issued by  
9 the [United States] Sentencing Commission.” 18 U.S.C. § 3582(c)(1)(A). The  
10 statute and the Sentencing Guidelines instruct that the Court should consider the  
11 sentencing factors set forth in 18 U.S.C. § 3553(a) when deciding a motion for  
12 compassionate release. 18 U.S.C. § 3582(c)(1)(A); U.S.S.G. § 1B1.13. The Court  
13 should not grant a sentence reduction if the defendant poses a risk of danger to the  
14 community, as defined in the Bail Reform Act. 18 U.S.C. § 3582(c)(1)(A) (as to  
15 second prong only); U.S.S.G. § 1B1.13 (as to both the first and second prongs).

16 The Sentencing Commission has recently updated its policy statement on  
17 sentence reduction. U.S.S.G. Guidelines Manual, effective Nov. 1, 2023. The  
18 sentence reduction policy statement now outlines six categories of circumstances  
19 that may constitute “extraordinary and compelling reasons” for a sentence  
20 reduction: (1) Medical Circumstances of the Defendant; (2) Age of the Defendant;

1 (3) Family Circumstances of the Defendant; (4) Victim of Abuse; (5) Other  
2 Reasons; and (6) Unusually Long Sentence. U.S.S.G. § 1B1.13, eff. Nov. 1, 2023.

3 According to the Ninth Circuit in *United States v. Aruda*, 993 F.3d 797 (9th  
4 Cir. 2021), “district courts are empowered . . . to consider *any* extraordinary and  
5 compelling reason for release that a defendant might raise.” *Id.* (agreeing with and  
6 quoting decisions of Second and Fourth Circuits).

7 **B. Exhaustion or Lapse of 30 days**

8 Defendant has not shown that he exhausted his administrative remedies.

9 **C. Extraordinary and Compelling Reasons**

10 Defendant, now age 33, argues that the Court relied on his criminal  
11 convictions for the sentence ordered in this case. He argues once again that his  
12 criminal history points have been reduced.

13 In this case, there are no extraordinary and compelling reasons, alone or in  
14 combination, for a reduction in sentence.

15 **D. Factors under 18 U.S.C. § 3553(a)**

16 Defendant’s life long criminal history shows that he does pose a risk of  
17 recidivism (despite the expungement of simple drug possession charges) and he  
18 has been addicted to heroin.

1 18 U.S.C. § 3582(c) and the Sentencing Guidelines instruct that the Court  
2 should consider the sentencing factors set forth in 18 U.S.C. § 3553(a) when  
3 deciding a motion for compassionate release. 18 U.S.C. § 3553(a) provides:

4 The court shall impose a sentence sufficient, but not greater than necessary, to  
5 comply with the purposes set forth in paragraph (2) of this subsection. The  
6 court, in determining the particular sentence to be imposed, shall consider—

7 (1) the nature and circumstances of the offense and the history and  
8 characteristics of the defendant;

9 (2) the need for the sentence imposed—

10 (A) to reflect the seriousness of the offense, to promote respect for  
11 the law, and to provide just punishment for the offense;

12 (B) to afford adequate deterrence to criminal conduct;

13 (C) to protect the public from further crimes of the defendant; and

14 (D) to provide the defendant with needed educational or vocational  
15 training, medical care, or other correctional treatment in the most  
16 effective manner;

17 (3) the kinds of sentences available;

18 (4) the kinds of sentence and the sentencing range established for—

19 (A) the applicable category of offense committed by the applicable  
20 category of defendant as set forth in the guidelines—

(i) issued by the Sentencing Commission pursuant to section  
994(a)(1) of title 28, United States Code, subject to any  
amendments made to such guidelines by act of Congress  
(regardless of whether such amendments have yet to be  
incorporated by the Sentencing Commission into amendments  
issued under section 994(p) of title 28); and

(ii) that, except as provided in section 3742(g), are in effect on  
the date the defendant is sentenced; or

(B) in the case of a violation of probation or supervised release, the  
applicable guidelines or policy statements issued by the Sentencing  
Commission pursuant to section 994(a)(3) of title 28, United States  
Code, taking into account any amendments made to such guidelines or  
policy statements by act of Congress (regardless of whether such  
amendments have yet to be incorporated by the Sentencing  
Commission into amendments issued under section 994(p) of title 28);

(5) any pertinent policy statement—

(A) issued by the Sentencing Commission pursuant to section 994(a)(2) of title 28, United States Code, subject to any amendments made to such policy statement by act of Congress (regardless of whether such amendments have yet to be incorporated by the Sentencing Commission into amendments issued under section 994(p) of title 28); and

(B) that, except as provided in section 3742(g), is in effect on the date the defendant is sentenced.

(6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and

(7) the need to provide restitution to any victims of the offense.

At the time of the original sentencing, the Court accepted the Parties agreed sentence pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) for a term of incarceration for 156-months. ECF No. 53 at 6-7. Defendant also waived his right to appeal his conviction and sentence. *Id.* at 8. Considering all the sentencing factors, the Court accepted the parties' agreement as sufficient but not greater than necessary to comply with the purposes and goals of sentencing.

Once again, the Court has fully considered these factors in light of the information Defendant recently provided. Of particular note is the nature and circumstances of the offense in this case. This was not a simple, one-time event, Defendant was involved in repeated drug distribution over a period of time. Defendant also possessed multiple firearms. Defendant has used illegal controlled substances since he was 13 or 14 years old.

The Court is obligated to protect the public from defendant's serious, dangerous and devastating conduct. The sentence the Court imposed was

1 “sufficient, but not greater than necessary,” to comply with the purposes of  
2 § 3553(a), including to reflect the seriousness of the offense, to promote respect for  
3 the law, to provide just punishment for the offense and to afford adequate  
4 deterrence to this criminal conduct. Even with recent developments, the sentence  
5 imposed remains sufficient but not greater than necessary to comply with the  
6 purposes of sentencing.

7 **CONCLUSION**

8 The Court declines to exercise its discretion to reduce Defendant’s sentence  
9 because extraordinary and compelling reasons do not warrant such a reduction.

10 **ACCORDINGLY, IT IS HEREBY ORDERED:**

11 Defendant’s Motion for Compassionate Release, ECF No. 101, is **DENIED**.

12 Defendant’s request for appointed counsel is also **DENIED**.

13 The District Court Executive is directed to enter this Order and furnish  
14 copies to the parties, including Defendant at FCI Sheridan.

15 DATED June 14, 2024.



A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE  
United States District Judge